

Senate Bill No. 64

Passed the Senate July 7, 2005

Secretary of the Senate

Passed the Assembly July 7, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10080 of, and to repeal Sections 10002, 10002.5, 10054, 10055, 10056, 10057, 10058, and 10060 of, the Business and Professions Code, to repeal Chapter 9 (commencing with Section 6950) of Part 1 of Division 6 of the Fish and Game Code, to amend Section 54451.5 of, and to repeal Article 3 (commencing with Section 54442) of Chapter 2 of Division 20 of, the Food and Agricultural Code, to amend Sections 7550.5, 8700, 8701, 8702, 8705, 8709, and 12232 of, and to repeal Sections 8704, 8707, 12231, and 65054.5 of, the Government Code, to amend Sections 1347.15, 1367.03, 1367.04, and 1368.2 of, and to repeal Sections 1342.3, 1347, and 1347.1 of, the Health and Safety Code, to amend Sections 154, 261, 262, and 262.5 of, to repeal Section 2158 of, and to repeal and add Section 2157 of, the Streets and Highways Code, and to amend Section 14165.8 of the Welfare and Institutions Code, relating to boards and commissions.

LEGISLATIVE COUNSEL'S DIGEST

SB 64, Committee on Budget and Fiscal Review. State boards and commissions.

(1) Existing law provides for the regulation of real estate licensees by the Real Estate Commissioner. Existing law requires the commissioner to appoint a Real Estate Advisory Commission. The commission makes recommendations and suggestions on the functions and policies of the Department of Real Estate.

This bill would abolish the Real Estate Advisory Commission.

(2) Existing law establishes the Interagency Aquatic Invasive Species Council, consisting of specified representatives, and requires the Department of Fish and Game, in cooperation with the council, to support and coordinate the development of a comprehensive plan for dealing with aquatic invasive species in California. Existing law requires the council to submit its first working version of the plan on or before January 1, 2004. Existing law requires the council to meet at least twice annually to ensure that state agency activities concerning aquatic invasive species are coordinated, complementary, cost-efficient, and

effective. Existing law also requires the department to work cooperatively with specified state agencies to implement the Ballast Water Management Program.

This bill would abolish the Interagency Aquatic Invasive Species Council, and would repeal a provision relating to the department's duty under the Ballast Water Management Program.

(3) Existing law establishes the Agriculture Cooperative Bargaining Advisory Committee, and charges it with reporting on specified matters to the Secretary of Food and Agriculture.

This bill would repeal those provisions.

Existing law charges the advisory committee with recommending to the Department of Food and Agriculture, a conciliation service to be appointed by the department, in the event parties to a conciliation cannot agree on a conciliator, in the context of a specified conciliation scheme relating to cooperative bargaining associations and processors.

This bill would delete the requirement that the advisory board make that recommendation to the department.

(4) Existing law generally sets forth the membership of the Commission of the Californias. Existing law establishes the Office of California-Mexico Affairs, provides that the office succeeds to, and is vested with, all the duties, powers, purposes, and responsibilities vested in the commission, and generally sets forth the duties and authority of the office with respect to California-Mexico relations.

This bill would repeal provisions governing the Commission of the Californias, and make various conforming changes. It would also make specified changes in the duties and authority of the Office of California-Mexico Affairs.

(5) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. The act establishes the Advisory Committee on Managed Health Care and the Clinical Advisory Panel within the department to assist and advise the department's director regarding specified functions of the department.

This bill would abolish the Advisory Committee on Managed Health Care and the Clinical Advisory Panel. The bill would

delete a provision that required the director to report to the Legislature on health insurer regulation before January 1, 2002.

(6) Existing law creates a Governor's Small Business Reform Task Force, chaired by the Director of the Office of Small Business Advocate, in order to identify problems and ideas from the small business community concerning regulation, communications, and assistance of state government with small business.

This bill would repeal the provisions creating this task force.

(7) Existing law creates the Departmental Transportation Advisory Committee which acts in an advisory capacity to the Department of Transportation relative to the preparation of various transportation reports prepared by the department and other matters, including designation of scenic highways.

This bill would abolish the committee and provide that the department succeeds to its duties and responsibilities.

(8) This bill would delete references in existing law to the California Heritage Preservation Commission.

(9) Existing law establishes the California Medical Assistance Commission and provides that the commission be reimbursed at the annual salary of members of the Legislature.

This bill would, beginning January 1, 2006, provide that the commission be reimbursed at the annual salary of \$50,000, and would require an increase in compensation if state employees receive a salary increase.

The people of the State of California do enact as follows:

SECTION 1. Section 10002 of the Business and Professions Code is repealed.

SEC. 2. Section 10002.5 of the Business and Professions Code is repealed.

SEC. 3. Section 10054 of the Business and Professions Code is repealed.

SEC. 4. Section 10055 of the Business and Professions Code is repealed.

SEC. 5. Section 10056 of the Business and Professions Code is repealed.

SEC. 6. Section 10057 of the Business and Professions Code is repealed.

SEC. 7. Section 10058 of the Business and Professions Code is repealed.

SEC. 8. Section 10060 of the Business and Professions Code is repealed.

SEC. 9. Section 10080 of the Business and Professions Code is amended to read:

10080. The commissioner may adopt, amend, or repeal rules and regulations that are reasonably necessary for the enforcement of the provisions of this part and of Chapter 1 (commencing with Section 11000) of Part 2 of this division. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

SEC. 10. Chapter 9 (commencing with Section 6950) of Part 1 of Division 6 of the Fish and Game Code is repealed.

SEC. 11. Article 3 (commencing with Section 54442) of Chapter 2 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 12. Section 54451.5 of the Food and Agricultural Code is amended to read:

54451.5. A conciliation service shall be appointed by the department if the parties cannot agree on a conciliator.

SEC. 13. Section 7550.5 of the Government Code is amended to read:

7550.5. (a) For purposes of this section:

(1) “Public agency” means any state or local agency or district, including, but not limited to, a school district, the University of California, the California State University, and the California Community Colleges.

(2) “Written report” means a document that a statute requires to be prepared and submitted to the Legislature, the Governor, or any state legislative or executive body.

(b) Notwithstanding any other provision of law, a public agency may, but is not required to, prepare or submit any written report to the Legislature, the Governor, or any state legislative or executive body unless the report is specified in subdivision (c) or any of the following has occurred:

(1) The report is required, in whole or in part, by a court order, federal law, or federal regulation.

(2) The report is required in the annual Budget Act or in any accompanying supplemental budget report prepared by the Legislative Analyst.

(3) The Legislature expressly provides that, notwithstanding this section, a written report shall be prepared and submitted.

(4) The report is necessary for the preparation of the annual Budget Act or the implementation of that act, as determined by the Department of Finance.

(5) The report is required pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code or is required by statute for any entity governed by Division 2, 3, or 8 of the Business and Professions Code.

(c) Reports shall be prepared and submitted pursuant to the following provisions of law:

(1) Sections 806, 4425, 4996.22, 4999.8, 6086.15, 6095, 6145, 6177, 7011.8, 7021, 7139.7, 19441, and 19617.4 of the Business and Professions Code.

(2) Sections 5930, 14030.2, and 14076 of the Corporations Code.

(3) Sections 408, 425, 8007, 8236, 8261, 8278.3, 8359, 8451, 11023, 12141, 12142, 12510, 14502, 14508, 17078.66, 17199.4, 22217, 22218.5, 22311.5, 22324, 22352, 22362, 24400, 25933, 25950, 32296.1, 33053, 33126, 33126.1, 33328, 33595, 35256, 35294.14, 37252.1, 37670, 41020.6, 41320, 41320.3, 41339, 41407, 42263, 42269, 42923, 42925, 44225.6, 44238, 44252.1, 44252.9, 44253.10, 44257.4, 44258.9, 44259.5, 44259.8, 44279.2, 44306, 44329, 44393, 44403, 44507, 44516, 44735, 47602, 47614.5, 47616.5, 47773, 48005.45, 48200.7, 48200.8, 48664, 49082, 49436, 51728, 51745.1, 52042, 52052, 52055.640, 52055.656, 52058, 52171.6, 52184, 52243, 52247, 52314, 52902.5, 54006, 56494, 56867, 58560, 60630, 60800, 60830.7, 60852.5, 60855, 60900, 62000.14, 63053, 64201, 66015.7, 66742, 66743, 66755, 66903, 66941, 67312, 67359, 67359.16, 67380, 69437.7, 69506.5, 69508, 69529.5, 69532, 69561.5, 69563, 69615.4, 69618.8, 69655, 69989, 71020, 71027, 71051, 78032, 78275.5, 79148, 81254, 84040, 84040.5, 84040.6, 84362, 84754, 84758, 87164, 87482.4, 88550, 89030.1, 89343, 89720, 89753, 99105, 99155, 99182, and 99240 of the Education Code.

(4) Sections 3032, 17600, and 17602 of the Family Code.

(5) Sections 411, 2281, 12794.5, 13144, and 13152 of the Food and Agricultural Code.

(6) Sections 965.4, 965.65, 3541.3, 7085, 7299.4, 7299.6, 7504, 8169.5, 8245, 8878.97, 9148.4, 11017.5, 11678, 12010.6, 12017, 12020, 12021, 12080.2, 12170, 12174, 12329, 12439, 12460, 12461, 12461.1, 12463, 12463.1, 12463.3, 12468, 12522, 12741, 12803.2, 13308, 13337, 13405, 14051, 14524.16, 14525.5, 14535, 14536, 14840, 15320, 15323.5, 15335.11, 15363.73, 15399.45, 15901, 16725, 16759, 16855, 17570, 17600, 17601, 19237, 19405, 19683, 19702.5, 19705, 19792.5, 19793, 19795, 19816.20, 19826, 19827.2, 19849.11, 19994.20, 19996.21, 19996.40, 20194, 20208, 20228, 20232, 20233, 20235, 20236, 20237, 20238, 20398, 20405.1, 21499, 22791, 22840.3, 30063, 53084, 53299, 65048, 65400, 68511, 68513, 68563, 68604, 75089.1, and 77209 of the Government Code.

(7) Sections 900, 901, 1266.1, 1276.4, 1316.5, 1357.16, 1367.695, 1371.37, 1371.38, 1371.39, 1374.36, 1380.1, 1438, 1596.872a, 1596.872b, 1797.98b, 1797.121, 1799.204, 11495, 11756.8, 11970.2, 18502.5, 18870.3, 26203, 33426.7, 35815, 40448.5.1, 40452, 42860, 44525.6, 50199.15, 50408, 50452, 50459, 50834, 51005, 51454, 51622, 53305, 53311, 59019, 101950, 104187, 104315, 108923, 115255, 116095, 116355, 116365.5, 127365, 128725, 128735, 128736, 128737, 128740, 128745, 128748, 128750, 128755, 129045, and 129075 of the Health and Safety Code.

(8) Sections 742.435, 1060, 1067.13, 1758.994, 1872.96, 10089.13, 10089.27, 10089.84, 10123.84, 11751.51, 11805, 11860, 12693.92, 12693.93, 12922, 12961, and 12962 of the Insurance Code.

(9) Sections 77, 90.5, 98.75, 111, 147.2, 1143, 3073.5, 3201.5, 3716.5, 3729, 5502, 6330, 7316, 7384, and 7722 of the Labor Code.

(10) Sections 73.5, 179, 974.5, 999.7, and 1012.5 of the Military and Veterans Code.

(11) Sections 628.2, 629.62, 6031.2, 7445, 10359, 13010, 13010.5, 13012, 13012.5, 13014, and 13519.4 of the Penal Code.

(12) Sections 10115.5, 10359, 10722, and 20133 of the Public Contract Code.

(13) Sections 2797, 3258, 4515, 4612, 5090.32, 5653, 21080.5, 30012, 30342, 30519.5, 30533, 36980, 36994, 42885.5,

42889.3, 42889.4, 71211, 71212, 71271, and 71300 of the Public Resources Code.

(14) Sections 316.5, 389, 873, 2881, 3346, 99243, and 132352.6 of the Public Utilities Code.

(15) Sections 1647, 1648, 1649, 6377, 17053.49, and 23649 of the Revenue and Taxation Code.

(16) Sections 164.56, 188.5, and 2154 of the Streets and Highways Code.

(17) Sections 329, 832, 995, 2614, 4901, 9600, 9616, 9616.1, 9617, 9907, 10004, 10205, 10532, 11011, 11014, 12141, 15037, 15064, 15079, and 17002 of the Unemployment Insurance Code.

(18) Sections 1821 and 23249 of the Vehicle Code.

(19) Sections 73502, 73505, 79421, and 81674 of the Water Code.

(20) Sections 209, 4024, 4109.5, 4365.5, 4429, 4430, 4432, 4540, 4565, 4681.1, 4691, 4696.1, 4836, 5613, 5772, 5814, 10090, 10822, 10823, 11329, 11373, 11462, 12301.6, 13913, 14026.5, 14051, 14067, 14085.5, 14100.5, 14120, 14124.12, 14126.80, 14132, 14133.9, 14148.8, 14148.91, 14161, 14165.9, 14459.5, 14459.7, 14501, 15204.4, 15204.8, 16206, 16981, 16996.2, 18236, 19106, 19356.6, and 25003 of the Welfare and Institutions Code.

(21) (A) Statutes of 2003—Section 2 of Chapter 896, Section 1 of Chapter 795, and Section 24.60 of Chapter 157.

(B) Statutes of 2001—Section 53.5 of Chapter 171 and Section 24.60 of Chapter 106.

(C) Statutes of 2000—Section 2 of Chapter 913, Section 3 of Chapter 902, Section 1 of Chapter 457, Section 8 of Chapter 403, and Section 24.60 of Chapter 52.

(D) Section 1 of Chapter 5 of the Statutes of 1999–2000 First Extraordinary Session.

(E) Statutes of 1999—Section 2 of Chapter 973, Section 2 of Chapter 954, Section 2 of Chapter 402, Section 2 of Chapter 337, and Section 1 of Chapter 195.

(F) Statutes of 1998—Section 1 of Chapter 1051, Section 55 of Chapter 329, Section 75 of Chapter 311, and Resolution Chapter 113.

(G) Statutes of 1997—Section 69 of Chapter 854, Section 7 of Chapter 813, Section 13 of Chapter 812, Section 12 of Chapter 812, and Section 2 of Chapter 767.

(H) Statutes of 1996—Section 55 of Chapter 954, and Section 6 of Chapter 69.

(I) Statutes of 1995—Section 7 of Chapter 789.

(J) Statutes of 1992—Section 6 of Chapter 1068.

(K) Statutes of 1991—Section 13 of Chapter 760.

(L) Statutes of 1989—Section 6 of Chapter 1306, Section 10 of Chapter 1071, and Resolution Chapter 174.

(M) Statutes of 1988—Section 2 of Chapter 1495, Section 3 of Chapter 1397, Section 60 of Chapter 973, Section 59 of Chapter 973, and Section 1 of Chapter 659.

(N) Statutes of 1987—Section 7 of Chapter 136.

(22) Statutes of 1969—Section 127 of Chapter 209, as amended by Chapter 155 of the Statutes of 2004.

(23) Items 0250-101-0001, 0450-101-0932, 0820-001-0001, 0840-001-0001, 0845-001-0217, 2240-001-0933, 2240-109-0001, 2240-112-0001, 2400-001-0933, 4170-001-0001, 4280-112-0236, 4440-001-0001, 5100-001-0870, 5100-311-0690, 5180-101-0001, 6110-156-0890, 6110-485-0001, 6870-101-0001, and 8960-011-0001 of Section 2.00 of the Budget Act of 2000.

(24) Section 6 of Article VI of the California Constitution.

(25) All reports pertaining to Item 6610-001-0001 required in the Legislative Analyst's Office's Supplemental Report of the Budget Act of 2002.

(26) Any report required by a bill that was approved by the Senate Committee on Transportation on or after January 1, 1999.

(27) Any report that is required to be submitted to the Joint Legislative Audit Committee.

(28) All reports statutorily required to be prepared by the California Environmental Protection Agency or its boards, departments, or offices.

(29) Any report required by any law enacted on or after January 1, 2003.

(d) This section may not be construed to require resubmission of a one-time report that is required by statute if that report already has been submitted as required.

(e) This section may not be construed to interfere with an exclusive representative's right to request or receive information related to its representation of state and California State University employees under Chapter 10.3 (commencing with

Section 3512) and Chapter 12 (commencing with Section 3560). A public agency shall not use this section to justify the denial of information under those provisions.

(f) Paragraph (28) of subdivision (c) shall become operative only if Assembly Bill 2701 of the 2003–04 Regular Session is enacted and becomes operative.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 14. Section 8700 of the Government Code is amended to read:

8700. The Legislature finds and declares the following:

(a) The United States and Mexican economies have become increasingly integrated, particularly since the 1994 adoption of the North American Free Trade Agreement, or NAFTA.

(b) This integration has brought both California and Mexico opportunities and challenges in the areas of economic development, labor relations, and environmental protection.

(c) The California Office of the Southwest Border Regional Conference (formerly commission) was established as part of a joint American border states effort to further and develop favorable relations with the six Mexican border states.

(d) The efforts of the California office of the conference continue to be an essential part of California's interaction with Mexico.

(e) It is important for the state and for the nation that state agencies continue to address important United States-Mexico issues.

(f) The Office of California-Mexico Affairs provides a focal point in state government to serve as a clearinghouse for information and assistance to other state agencies which are involved with Mexico.

SEC. 15. Section 8701 of the Government Code is amended to read:

8701. The following definitions shall govern the construction of this chapter:

(a) "Office" means the Office of California-Mexico Affairs.

(b) "Conference" means the Southwest Border Regional Conference.

SEC. 16. Section 8702 of the Government Code is amended to read:

8702. (a) There is in state government an Office of California-Mexico Affairs. Within this office the operations of the California Office of the Southwest Border Regional Conference shall be continued.

(b) The office succeeds to and is vested with all the duties, powers, purposes, and responsibilities vested in the California office of the conference and previously vested in the Commission of the Californias.

(c) The office shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property, real or personal, held for the benefit or use of the California office of the conference, or previously held for the benefit or use of the commission, in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the California office of the conference or the commission.

SEC. 17. Section 8704 of the Government Code is repealed.

SEC. 18. Section 8705 of the Government Code is amended to read:

8705. The office shall further and develop favorable relations with the State of Baja California, the State of Baja California Sur, other Mexican states bordering on the United States, and the remaining states and territories of the Republic of Mexico necessary for the completion of the office's tasks. The office shall cooperate with similar organizations and agencies situated within California, the United States, or Mexico, to further economic development, improve working conditions and living standards, and foster the protection and improvement of the environment in Mexico and California. The office shall avail itself of the services of the San Diego State University, which is engaged in educational, cultural, and research activities with Mexico. The office shall be responsible for carrying out the ongoing responsibilities of the Southwest Border Regional Conference.

SEC. 19. Section 8707 of the Government Code is repealed.

SEC. 20. Section 8709 of the Government Code is amended to read:

8709. The office shall be responsible for the establishment of committees in those topic areas deemed necessary by the director. Recommendations of the committees shall not be binding on the Governor or the Legislature but shall only be advisory in nature.

SEC. 21. Section 12231 of the Government Code is repealed.

SEC. 22. Section 12232 of the Government Code is amended to read:

12232. The Secretary of State shall utilize the California State Library to advise, encourage, and coordinate the activities of the county historical records commissions, either designated or appointed by the county boards of supervisors pursuant to Section 26490. The chairman or his or her designee of each county historical records commission may attend an annual meeting with the California State Library, at state expense, to receive advice in the preservation of local government archives and public library collections of historical materials.

SEC. 23. Section 65054.5 of the Government Code is repealed.

SEC. 24. Section 1342.3 of the Health and Safety Code is repealed.

SEC. 25. Section 1347 of the Health and Safety Code is repealed.

SEC. 26. Section 1347.1 of the Health and Safety Code is repealed.

SEC. 27. Section 1347.15 of the Health and Safety Code is amended to read:

1347.15. (a) There is hereby established in the Department of Managed Health Care the Financial Solvency Standards Board composed of eight members. The members shall consist of the director, or the director's designee, and seven members appointed by the director. The seven members appointed by the director may be, but are not necessarily limited to, individuals with training and experience in the following subject areas or fields: medical and health care economics; accountancy, with experience in integrated or affiliated health care delivery systems; excess loss insurance underwriting in the medical, hospital, and health plan business; actuarial studies in the area of

health care delivery systems; management and administration in integrated or affiliated health care delivery systems; investment banking; and information technology in integrated or affiliated health care delivery systems. The members appointed by the director shall be appointed for a term of three years, but may be removed or reappointed by the director before the expiration of the term.

(b) The purpose of the board is to do all of the following:

(1) Advise the director on matters of financial solvency affecting the delivery of health care services.

(2) Develop and recommend to the director financial solvency requirements and standards relating to plan operations, plan-affiliate operations and transactions, plan-provider contractual relationships, and provider-affiliate operations and transactions.

(3) Periodically monitor and report on the implementation and results of the financial solvency requirements and standards.

(c) Financial solvency requirements and standards recommended to the director by the board may, after a period of review and comment not to exceed 45 days, be noticed for adoption as regulations as proposed or modified under the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). During the director's 45-day review and comment period, the director, in consultation with the board, may postpone the adoption of the requirements and standards pending further review and comment. Nothing in this subdivision prohibits the director from adopting regulations, including emergency regulations, under the rulemaking provisions of the Administrative Procedure Act.

(d) Except as provided in subdivision (e), the board shall meet at least quarterly and at the call of the chair. In order to preserve the independence of the board, the director shall not serve as chair. The members of the board may establish their own rules and procedures. All members shall serve without compensation, but shall be reimbursed from department funds for expenses actually and necessarily incurred in the performance of their duties.

(e) During the two years from the date of the first meeting of the board, the board shall meet monthly in order to expeditiously fulfill its purpose under paragraphs (1) and (2) of subdivision (b).

(f) For purposes of this section, “board” means the Financial Solvency Standards Board.

SEC. 28. Section 1367.03 of the Health and Safety Code is amended to read:

1367.03. (a) Not later than January 1, 2004, the department shall develop and adopt regulations to ensure that enrollees have access to needed health care services in a timely manner. In developing these regulations, the department shall develop indicators of timeliness of access to care and, in so doing, shall consider the following as indicators of timeliness of access to care:

(1) Waiting times for appointments with physicians, including primary care and specialty physicians.

(2) Timeliness of care in an episode of illness, including the timeliness of referrals and obtaining other services, if needed.

(3) Waiting time to speak to a physician, registered nurse, or other qualified health professional acting within his or her scope of practice who is trained to screen or triage an enrollee who may need care.

(b) In developing these standards for timeliness of access, the department shall consider the following:

(1) Clinical appropriateness.

(2) The nature of the specialty.

(3) The urgency of care.

(4) The requirements of other provisions of law, including Section 1367.01 governing utilization review, that may affect timeliness of access.

(c) The department may adopt standards other than the time elapsed between the time an enrollee seeks health care and obtains care. If the department chooses a standard other than the time elapsed between the time an enrollee first seeks health care and obtains it, the department shall demonstrate why that standard is more appropriate. In developing these standards, the department shall consider the nature of the plan network.

(d) The department shall review and adopt standards, as needed, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care, so that

consumers have timely access to care. In so doing, the department shall consider the nature of physician practices, including individual and group practices as well as the nature of the plan network. The department shall also consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers. If the department finds that health care service plans and health care providers have difficulty meeting these standards, the department may make recommendations to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature pursuant to subdivision (i).

(e) In developing standards under subdivision (a), the department shall consider requirements under federal law, requirements under other state programs, standards adopted by other states, nationally recognized accrediting organizations, and professional associations. The department shall further consider the needs of rural areas, specifically those in which health facilities are more than 30 miles apart and any requirements imposed by the State Department of Health Services on health care service plans that contract with the State Department of Health Services to provide Medi-Cal managed care.

(f) (1) Contracts between health care service plans and health care providers shall assure compliance with the standards developed under this section. These contracts shall require reporting by health care providers to health care service plans and by health care service plans to the department to ensure compliance with the standards.

(2) Health care service plans shall report annually to the department on compliance with the standards in a manner specified by the department. The reported information shall allow consumers to compare the performance of plans and their contracting providers in complying with the standards, as well as changes in the compliance of plans with these standards.

(g) (1) When evaluating compliance with the standards, the department shall focus more upon patterns of noncompliance rather than isolated episodes of noncompliance.

(2) The director may investigate and take enforcement action against plans regarding noncompliance with the requirements of this section. Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director may, by order,

assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing in accordance with Section 1397. The plan may provide to the director, and the director may consider, information regarding the plan's overall compliance with the requirements of this section. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the State Managed Care Fund. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(3) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(A) Repeated failure to act promptly and reasonably to assure timely access to care consistent with this chapter.

(B) Repeated failure to act promptly and reasonably to require contracting providers to assure timely access that the plan is required to perform under this chapter and that have been delegated by the plan to the contracting provider when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(C) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(4) The administrative penalties authorized pursuant to this section shall be paid to the State Managed Care Fund.

(h) The department shall work with the patient advocate to assure that the quality of care report card incorporates information provided pursuant to subdivision (f) regarding the degree to which health care service plans and health care providers comply with the requirements for timely access to care.

(i) The department shall report to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature

on March 1, 2003, and on March 1, 2004, regarding the progress toward the implementation of this section.

(j) Every three years, the department shall review information regarding compliance with the standards developed under this section and shall make recommendations for changes that further protect enrollees.

SEC. 29. Section 1367.04 of the Health and Safety Code is amended to read:

1367.04. (a) Not later than January 1, 2006, the department shall develop and adopt regulations establishing standards and requirements to provide health care service plan enrollees with appropriate access to language assistance in obtaining health care services.

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee

population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

- (i) Applications.
- (ii) Consent forms.
- (iii) Letters containing important information regarding eligibility and participation criteria.
- (iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.
- (v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.
- (vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C) (i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the effective date of the regulations that permit health care service plans to utilize various survey methods, including,

but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

(c) In developing the regulations, standards, and requirements, the department shall consider the following:

(1) Publications and standards issued by federal agencies, such as the Culturally and Linguistically Appropriate Services (CLAS) in Health Care issued by the United States Department of Health and Human Services Office of Minority Health in December 2000, and the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)).

(2) Other cultural and linguistic requirements under state programs, such as Medi-Cal Managed Care Policy Letters, cultural and linguistic requirements imposed by the State Department of Health Services on health care service plans that contract to provide Medi-Cal managed care services, and cultural and linguistic requirements imposed by the Managed Risk Medical Insurance Board on health care service plans that contract to provide services in the Healthy Families Program.

(3) Standards adopted by other states pertaining to language assistance requirements for health care service plans.

(4) Standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services.

(5) Publications, guidelines, reports, and recommendations issued by state agencies or advisory committees, such as the report card to the public on the comparative performance of plans and reports on cultural and linguistic services issued by the Office of Patient Advocate and the report to the Legislature from the Task Force on Culturally and Linguistically Competent Physicians and Dentists established by Section 852 of the Business and Professions Code.

(6) Examples of best practices relating to language assistance services by health care providers and health care service plans, including existing practices.

(7) Information gathered from complaints to the HMO Helpline and consumer assistance centers regarding language assistance services.

(8) The cost of compliance and the availability of translation and interpretation services and professionals.

(9) Flexibility to accommodate variations in plan networks and method of service delivery. The department shall allow for health care service plan flexibility in determining compliance with the standards for oral and written interpretation services.

(d) The department shall work to ensure that the biennial reports required by this section, and the data collected for those reports, are consistent with reports required by government-sponsored programs and do not require duplicative or conflicting data collection or reporting.

(e) The department shall seek public input from a wide range of interested parties through advisory bodies established by the director.

(f) A contract between a health care service plan and a health care provider shall require compliance with the standards developed under this section. In furtherance of this section, the contract shall require providers to cooperate with the plan by providing any information necessary to assess compliance.

(g) The department shall report biennially to the Legislature and advisory bodies established by the director regarding plan compliance with the standards, including results of compliance audits made in conjunction with other audits and reviews. The reported information shall also be included in the publication required under subparagraph (B) of paragraph (3) of subdivision (c) of Section 1368.02. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The department may also delay or otherwise phase-in implementation of standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(h) (1) Except for contracts with the State Department of Health Services Medi-Cal program, the standards developed

under this section shall be considered the minimum required for compliance.

(2) The regulations shall provide that a health plan is in compliance if the plan is required to meet the same or similar standards by the Medi-Cal program, either by contract or state law, if the standards provide as much access to cultural and linguistic services as the standards established by this section for an equal or higher number of enrollees and therefore meet or exceed the standards of the regulations established pursuant to this section, and the department determines that the health care service plan is in compliance with the standards required by the Medi-Cal program. To meet this requirement, the department shall not be required to perform individual audits. The department shall, to the extent feasible, rely on audits, reports, or other oversight and enforcement methods used by the State Department of Health Services.

(3) The determination pursuant to paragraph (2) shall only apply to the enrollees covered by the Medi-Cal program standards. A health care service plan subject to paragraph (2) shall comply with the standards established by this section with regard to enrollees not covered by the Medi-Cal program.

(i) Nothing in this section shall prohibit a government purchaser from including in their contracts additional translation or interpretation requirements, to meet linguistic or cultural needs, beyond those set forth pursuant to this section.

SEC. 30. Section 1368.2 of the Health and Safety Code is amended to read:

1368.2. (a) On and after January 1, 2002, every group health care service plan contract, except a specialized health care service plan contract, which is issued, amended, or renewed, shall include a provision for hospice care.

(b) The hospice care shall at a minimum be equivalent to hospice care provided by the federal Medicare program pursuant to Title XVIII of the Social Security Act.

(c) The hospice care provided under this section is not required to include preliminary services set forth in subdivision (d) of Section 1749. However, an enrollee who receives those preliminary services shall remain eligible for coverage of curative treatment by a health care service plan during the course

of preliminary services and prior to the election of hospice services.

(d) The following are applicable to this section and to paragraph (7) of subdivision (b) of Section 1345:

(1) The definitions in Section 1746, except for subdivisions (o) and (p) of that section.

(2) The “federal regulations” which means the regulations adopted for hospice care under Title XVIII of the Social Security Act in Title 42 of the Code of Federal Regulations, Chapter IV, Part 418, except Subparts A, B, G, and H, and any amendments or successor provisions thereto.

(e) The director no later than January 1, 2001, shall adopt regulations to implement this section. The regulations shall meet all of the following requirements:

(1) Be consistent with all material elements of the federal regulations that are not by their terms applicable only to eligible Medicare beneficiaries. If there is a conflict between a federal regulation and any state regulation, other than those adopted pursuant to this section, the director shall adopt the regulation that is most favorable for plan subscribers, members or enrollees to receive hospice care.

(2) Be consistent with any other applicable federal or state laws.

(3) Be consistent with the definitions of Section 1746, except for subdivisions (o) and (p) of that section.

(f) This section is not applicable to the subscribers, members, or enrollees of a health care service plan who elect to receive hospice care under the Medicare program.

SEC. 31. Section 154 of the Streets and Highways Code is amended to read:

154. The department shall encourage the construction and development by counties of portions of the county highways as official county scenic highways and may furnish to the counties any information or other assistance which will aid the counties in the construction or development of such scenic highways.

Whenever the department determines that any county highway meets the minimum standards prescribed by the department for official scenic highways, including the concept of the “complete highway,” as described in Section 261, it may authorize the county in which the highway is located to designate the highway

as an official county scenic highway and the department shall so indicate the highway in publications of the department and in any maps which are prepared by the department for distribution to the public which show the highway.

If the department determines that any county highway which has been designated as an official county scenic highway no longer meets the minimum standards prescribed by the department for official scenic highways, it may, after notice to the county and a hearing on the matter, if requested by the county, revoke the authority of the county to designate the highway as an official county scenic highway.

SEC. 32. Section 261 of the Streets and Highways Code is amended to read:

261. The department shall establish and apply pertinent planning and design standards for development of official scenic highways.

In establishing and applying such standards for, and undertaking the development of, official scenic highways, the department shall take into consideration the concept of the “complete highway,” which is a highway which incorporates not only safety, utility, and economy but also beauty. The department shall also take into consideration in establishing such standards that, in a “complete highway,” pleasing appearance is a consideration in the planning and design process. In the development of official scenic highways, the department shall give special attention both to the impact of the highway on the landscape and to the highway’s visual appearance. The standards for official scenic highways shall also require that local governmental agencies have taken such action as may be necessary to protect the scenic appearance of the scenic corridor, the band of land generally adjacent to the highway right-of-way, including, but not limited to, (1) regulation of land use and intensity (density) of development; (2) detailed land and site planning; (3) control of outdoor advertising; (4) careful attention to and control of earthmoving and landscaping; and (5) the design and appearance of structures and equipment.

SEC. 33. Section 262 of the Streets and Highways Code is amended to read:

262. Whenever the department determines that the corridor protection program for any state highway in the state scenic

highway system established by this article has been implemented by local governmental agencies and a plan and program has been developed by the department for bringing the highway up to the standards for official scenic highways established by the department, including the concept of the “complete highway,” as described in Section 261, the department shall designate the highway as an official state scenic highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

The department shall cause appropriate signs to be placed and maintained along the portions of the state scenic highway system which the department has designated as official state scenic highways that indicate that the highways are official state scenic highways.

If at any time the department determines that the corridor protection program of local governmental agencies, with respect to any highway which has been designated as an official state scenic highway, no longer adequately carries out responsibility of the local governmental agencies for the protection of the scenic corridor, it may revoke the designation of the highway as an official state scenic highway and remove the signs which so indicate the highway.

SEC. 34. Section 262.5 of the Streets and Highways Code is amended to read:

262.5. (a) Whenever the department determines that any state highway within or traversing United States National Forest lands meets the standards for official state scenic highways, the department shall designate the highway as an official state scenic highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

(b) The department shall cause appropriate signs to be placed and maintained along those portions of the highways which the department has designated pursuant to subdivision (a) as official state scenic highways that indicate that those portions of the highways are official state scenic highways.

(c) If at any time the department determines that a state highway, designated as an official state scenic highway pursuant to subdivision (a), no longer meets the standards for official state scenic highways, it may revoke the designation of the highway as

an official state highway and remove the signs which so indicate the highway.

SEC. 35. Section 2157 of the Streets and Highways Code is repealed.

SEC. 36. Section 2157 is added to the Streets and Highways Code, to read:

2157. The Departmental Transportation Advisory Committee is hereby abolished and the department shall succeed to all of its duties and responsibilities.

SEC. 37. Section 2158 of the Streets and Highways Code is repealed.

SEC. 38. Section 14165.8 of the Welfare and Institutions Code is amended to read:

14165.8. The commission shall be reimbursed at the annual salary of fifty thousand dollars (\$50,000), beginning on January 1, 2006. The commission shall set the salary of the executive director and other staff consistent with funds appropriated. The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 39. It is the intent of the Legislature that the governance structure of the Office of California-Mexico Affairs, or its successor agency, be determined pursuant to subsequent legislation.

Approved _____, 2005

Governor